

ELECTRONICALLY FILED
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CLERK OF COURT

**IN THE CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS**

DELSIA STOKES,

Plaintiff,

vs.

DOCKET NO.: CT-4803-20

DIVISION: IX

JURY TRIAL DEMANDED

THE FRESH MARKET, INC.

Defendant.



COMPLAINT

COMES NOW, the Plaintiff, Delsia Stokes, (hereinafter "Plaintiff") by and through the undersigned counsel, for this cause of action against the Defendant, The Fresh Market, Inc., (hereinafter "Defendant") would state as follows, to wit:

JURISDICTION

1. That the Plaintiff, Delsia Stokes, is an adult resident of Memphis, Shelby County, Tennessee.

2. That the Defendant, The Fresh Market, Inc. is a domestic for-profit corporation doing business in Tennessee. Defendant The Fresh Market, Inc. is liable for its own negligent acts and omissions as well as the acts or omission of its servants, employees, agents, and contractors, including all Co-Defendants, by virtue of the doctrine of agency, apparent agency, implied agency, employer/employee relations, master-servant relations, loaned servant relations, joint-venture, joint and several liability, respondeat superior, vicarious liability, and contract as a result of its non-delegable duty to comply with both state and federal regulatory schemes. Defendant The Fresh

Market, Inc. may be reached for service of process by this Honorable Court by serving its Registered Agent, Corporate Creations Network Inc., 205 Powell Place, Brentwood, TN 37027-7522.

3. That the Plaintiff's action arises in tort for the personal injuries and damages she sustained in an incident caused by Defendants that occurred in Memphis, Shelby County, Tennessee. This incident is the subject matter of this cause of action, and therefore, Defendants are subject to the jurisdiction and venue of this Honorable Court.

FACTS

4. That, on or about November 26, 2019, the Plaintiff, Delsia Stokes, was an invitee to the business of Defendant The Fresh Market, Inc., located at 835 South White Station Road, Memphis, TN 38117.

5. Plaintiff, Delsia Stokes, (hereinafter "Plaintiff") was in the store of Defendant for the purpose of conducting business of a pecuniary value to the Defendant, The Fresh Market, Inc., when she suddenly and without warning slipped and fell on a liquid substance in the Defendants place of business causing serious and painful injury to the Plaintiff.

6. As a direct and proximate result of Defendant's willful and wanton failure to maintain the premises in a safe condition and/or to warn of a known latent hazardous condition, Plaintiff sustained serious, painful and permanent injuries.

NEGLIGENCE

7. Plaintiff alleges that Defendant, their agents, servants, and/or employees are liable for one, some, or all of the following acts of common law negligence.

8. That, Defendant The Fresh Market, Inc., individually, and its management were under a duty to use reasonable care under the circumstance to discover any condition on their premises that posed a danger to persons coming onto their property.

9. Defendant The Fresh Market, Inc., was under a duty to use reasonable care and to maintain their property in a safe condition or to warn Plaintiff of the presence of any condition on their premises that in the exercise of reasonable care should have known, existed and posed a risk of harm to the Plaintiff when said condition was unknown by her.

10. In this case, Defendant The Fresh Market, Inc., their management and/or employees willfully and wantonly failed to make safe and/or warn of the existence of this danger on the premises by placing signs or warnings in a manner sufficient to be seen by patrons on the premises of Defendant The Fresh Market, Inc., despite Defendants actual knowledge of latent defect and thereby creating the hidden trap that injured Plaintiff. That Defendant was negligent and this negligence is the direct and proximate cause of Plaintiff's resulting injuries and damages.

11. That the negligence of the Defendant is the proximate cause of the injuries and damages sustained by the Plaintiff in this action, which injuries and damages shall be set forth hereinafter with more particularity.

INJURIES AND DAMAGES

12. Plaintiff, Delsia Stokes, charges and alleges that as a direct and proximate result of the negligence on the part of the Defendant, the Plaintiff suffered severe and permanent personal injuries including, but not limited to:

- a. Left knee pain;
- b. Permanent injuries and impairments
- c. Great physical pain, past, present, and future;
- d. Great mental and emotional suffering, past, present and future;
- e. Medical expenses, past, present and future;
- f. Severe fright and shock; and

g. Loss of enjoyment of life, past, present and future.

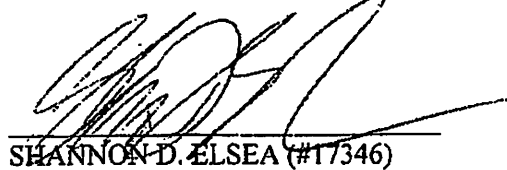
13. Plaintiff charges and alleges that as a direct and proximate result of the negligence on the part of the Defendant, the Plaintiff received serious, painful and permanent injuries requiring medical attention and treatment and that she incurred doctor and medical bills in an effort to relieve the pain, suffering and discomfort and to treat said injuries. That all doctor and medical bills so incurred were reasonable and necessary for the treatment of the injuries. That Plaintiff will in the future require further medical treatment and will incur medical bills in an effort to relieve pain, suffering, discomfort and to treat said injuries.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays:

1. That proper process be issued against Defendant requiring them to plead and answer;
2. That Plaintiff be awarded a judgment against Defendant for actual, compensatory, and punitive damages in the amount that truth dictates and justice demands, and in an amount not to exceed FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00);
3. That the costs of this action be awarded to Plaintiff;
4. That a jury be empaneled to try these issues when joined;
5. That Plaintiff be allowed to amend these pleadings to conform to the facts of this matter; and,
6. That Plaintiff receives all further relief to which she may be entitled.

Respectfully Submitted,

Gatti, Keltner, Bienvenu & Montesi

A handwritten signature in black ink, appearing to read 'SHANNON D. ELSEA', is written over a horizontal line.

SHANNON D. ELSEA (#17346)

Attorneys for Plaintiff

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